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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/955,151

09/19/2001

Randall J. Muravez

017750-546

8307

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07/03/2002

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EXAMINER

GREGORY, BERNARR E

ART UNIT

PAPER NUMBER

3662

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/955,151

Applicant(s)

MURAVEZ, RANDALL J.

Examiner

Bernarr E. Gregory

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-4,7 and 11-25 is/are rejected.
- 7) ☒ Claim(s) 5,6 and 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. The disclosure is objected to because of the following informalities: on page 49 of the specification all of claim 1 and part of claim 2 are mistakenly written, and then are repeated on page 50 in the claim section of the application.

Appropriate correction is required.

2. The incorporation of essential material in the specification by reference to a foreign application or patent, **or to a publication is improper**. Applicant is **required** to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

3. The attempt to incorporate subject matter into this application by reference to the non-patent publications recited in the specification is improper because they are non-patent publications.

Please note, for example, lines 1-6 of page 2 of the Specification.

4. At the filing of the application, there were claims numbered from 1 to 18 and 20 to 26. There was no claim numbered as claim 19. The claims that were numbered as claims 20, 21, 22, 23, 24, 25, and 26 have been renumbered as claims 19, 20, 21, 22, 23, 24, and 25 by the docket

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clerk per 37 CFR 1.126. Applicant is hereby **required** to correct the dependencies of the claims to reflect the new numbering.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 (numbered as claim 21 by applicants at filing) is indefinite and unclear due to the use of “can” on line 6 of the claim.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4, 7, 11-13, and 14-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Bessacini ('145).

Using independent claim 1 as exemplary, Bessacini ('145) shows that the “means for generating a guidance command” is located on what Bessacini ('145) calls the “launching vehicle.” The guidance commands are transmitted on radio frequencies by a “means for transmitting” from the launching vehicle to what Bessacini ('145) calls the “pursuing vehicle.”

With respect to the further limitations of dependent claims 2 and 3, please note in the abstract of

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Bessacini ('145) that it uses estimated values. The calculations in Bessacini ('145) would inherently involve range, velocity, acceleration, and rate of change of acceleration, so the further limitations of dependent claims 2 and 3 are met by Bessacini ('145). With respect to the further limitations of dependent claim 4, please note that Bessacini ('145) periodically makes a calculation and transmits a guidance signal to the pursuing vehicle based on the results of the last calculations. The further limitations of dependent claims 7 and 11-13 are inherent in the disclosure of Bessacini ('145).

The remarks with respect to claims 14-25 are substantially those made with respect to claims 1-4, 7, and 11-13 above.

9. Claims 5, 6, 8, 9, and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited by the examiner, but not applied above is of interest for showing prior art systems and methods of transmitting remotely-calculated guidance signals to a missile in flight.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr Gregory whose telephone number is (703) 306-5765. The examiner is in his office from 7:30 AM until 4:00 PM from Monday until Friday.

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FAX transmissions may be submitted to (703) 872-9326. The FAX operator is Ms. Elleni Negussie, who may be contacted at (703) 308-6538 for confirmations and other FAX questions.

Status inquiries and other questions of a general nature may be made to Technology Center 3600 Reception at (703) 308-1113.

A handwritten signature in black ink, appearing to read "Bernarr E. Gregory".

**Bernarr E. Gregory**  
**Primary Examiner**  
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